



**MINUTES
of the
THREE-HUNDRED-FIFTY-FIRST MEETING
of the
LEGISLATIVE COUNCIL
August 5, 2013
Santa Fe**

The three-hundred-fifty-first meeting of the Legislative Council was called to order on Monday, August 5, 2013, at 10:25 a.m. in Room 307 of the State Capitol by Senator Mary Kay Papen, co-chair.

Present

Sen. Mary Kay Papen, Co-Chair
Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Rep. Nate Gentry
Sen. Stuart Ingle
Sen. Timothy M. Keller
Sen. William H. Payne
Sen. Clemente Sanchez
Sen. Michael S. Sanchez
Sen. William E. Sharer
Rep. Thomas C. Taylor

Special Advisory Members Present

Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Stephanie Garcia Richard
Rep. Roberto "Bobby" J. Gonzales
Rep. Jason C. Harper
Sen. Daniel A. Ivey-Soto
Rep. James Roger Madalena
Sen. Cisco McSorley
Sen. John Arthur Smith
Rep. Carl Trujillo

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS
John Yaeger, Assistant Director for Legislative Affairs, LCS
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Jeret Fleetwood, Locator Coordinator, LCS

Absent

Rep. W. Ken Martinez, Co-Chair
Rep. Antonio "Moe" Maestas
Rep. Rick Miera
Rep. Sheryl Williams Stapleton

Special Advisory Members Absent

Sen. Pete Campos
Rep. Mary Helen Garcia
Sen. Mark Moores
Sen. George K. Munoz
Sen. Cliff R. Pirtle
Rep. Debbie A. Rodella
Sen. Benny Shendo, Jr.
Rep. Don L. Tripp

Approval of Minutes

Mr. Burciaga noted that the approved minutes from the April 30, 2013 meeting had omitted an item regarding per diem and mileage reimbursement for public members of the Uniform Law Commission.

On a motion made, seconded and passed, the corrected minutes of the three-hundred-forty-ninth meeting from April 30, 2013 were re-approved.

On a motion made, seconded and passed, the minutes of the three-hundred-fiftieth meeting from June 18, 2013 were approved as submitted.

Interim Committee Business

On a motion made, seconded and passed, T.J. Parks, Alan Tapia and Kirk Hartom were appointed as public members to the Public School Capital Outlay Oversight Task Force. Mr. Burciaga pointed out that Mr. Tapia and Mr. Hartom come from impact aid districts while Mr. Parks does not.

In response to a question from Representative Alcon, Mr. Burciaga explained that the superintendent of the Zuni Public School District had declined an appointment to the task force.

In response to a question from Senator Keller, Mr. Burciaga explained that the speaker and president pro tempore typically receive input from other members and coordinate with the Office of the Governor before bringing public member appointments to the council for approval.

Requests for Use of Capitol Chambers

Mr. Burciaga explained that Senator Jacob R. Candelaria and Representative James E. Smith were requesting the use of the senate chambers for the New Mexico Public Policy Forum, a group sponsoring an essay contest open to all New Mexico high school students. He said that the essay finalists would hold debates in the chambers in October and that the request was not partisan and was in compliance with the council policy regarding use of the chambers.

On a motion made, seconded and passed, the use of the chambers for the New Mexico Public Policy Forum was approved.

Staff Reports

Mr. Burciaga provided the council with proposed revisions to the code of conduct for legislative employees. He explained that the Governmental Conduct Act requires all agencies to have one in place and to review it periodically. Mr. Burciaga indicated that staff had worked with the National Conference of State Legislatures (NCSL) to update the code, and the proposed changes had been submitted to the chief clerks and the directors of the Legislative Finance Committee (LFC) and Legislative Education Study Committee (LESC). He said that the revisions were submitted to the council for review, that comments could be directed to him or Mr. Yaeger and that the council could consider the proposed changes at the October 11 meeting.

In response to a question from Senator McSorley, Mr. Yaeger explained that the NCSL suggested that the code should state things in a positive manner, rather than prohibiting acts, so that while the revisions may appear as major changes to the code, it simply emphasizes the underlying concept of the code.

In response to another question from Senator McSorley, Mr. Burciaga said that he could not recall violations of the code ever being an issue with an employee of the LCS. Instead, Mr. Burciaga explained that staff members are periodically reminded of provisions such as the Gift Act and that, occasionally, the code of conduct is used to answer specific questions that employees may have.

In response to a question from Senator Payne, Mr. Burciaga explained that requests made to the LCS, LFC or LESC for services are technically not subject to attorney-client privilege, but they are statutorily protected and confidential requests that cannot be disclosed by any staff member, attorney or otherwise. The statutory protections provided for such requests are distinct from, but not necessarily inapposite to, the protections made for attorney-client privileged communications.

In response to a question from Senator Keller, Mr. Burciaga explained that LCS staff has discussed use of social media, and that while staff members have constitutionally protected free speech rights, they are reminded that their actions reflect on both the LCS and on the legislature in general.

In response to a question from Representative Harper, Mr. Burciaga explained that session staff members are sometimes asked by legislators for assistance with personal matters while they perform their duties as citizen-legislators.

In response to a question from Representative Crook, Mr. Burciaga explained that the language in the code of conduct states that employees shall not accept anything of value in exchange for performing an act related to their employment or when something of value is provided in order to influence an employee. He explained that other gifts to the entire office, such as food or flowers, are accepted.

In response to a question from Representative Madalena, Mr. Burciaga said that the code of conduct is signed by session staff and permanent staff members alike.

On a motion made, seconded and passed, the revised code of conduct was tentatively approved by the council subject to any revisions that might be raised at the October meeting.

Mr. Burciaga told the council that he received the draft report regarding capitol security issues. He explained that he is still working with the consultant hired to assess the security measures in place in the State Capitol, and because the report does disclose some vulnerabilities,

it is excepted from disclosure under the Inspection of Public Records Act. He indicated that he would bring any items requiring council action back for approval.

The council had a brief discussion regarding the use of metal detectors in the State Capitol. Some members pointed out that many states do use them, while others noted that the State Capitol does a good job of remaining as open as possible to visitors.

Mr. Burciaga also discussed a security assessment of the Legislative Information Systems (LIS). He said that many of the enhancements identified by the assessment can be implemented through the LIS User Group. However, Mr. Burciaga noted, there is growing concern over devices brought in by members and staff wanting access to the LIS network, as the number of new and different devices is growing faster than LIS staff can keep up with them.

In response to a question from Senator McSorley, Mr. Burciaga explained that information technology (IT) capabilities of legislatures vary from state to state. For example, he noted, some states provide laptops to members and access to their networks for members and staff, while others do not.

In response to another question from Senator McSorley, Mr. Burciaga explained that IT consultants associated with the New Mexico Institute of Mining and Technology had performed the assessment.

In response to a question from Senator Clemente Sanchez, Mr. Burciaga explained that laptops are on a four-year cycle of replacement and that the LIS selects laptops to purchase based on security and software standards.

In response to questions from a number of legislators regarding access to the wireless network in the State Capitol for members, Mr. Burciaga indicated that the LIS is looking into how to ensure access to members while trying to meet increasing demand from everyone for wireless access.

There being no further business, the council adjourned at 11:15 a.m.